

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

Civil Revision Petition No.5894 of 2016

ORDER :

The revision petitioners 1 to 4 are the plaintiffs and the respondents 1 and 2 are the defendants in the suit for partition in O.S.NO.37 of 2012 pending on the file of the judge, Family Court-cum-IV Addl.District Judge, Adilabad. I.A.No.723 of 2015 is filed on behalf of the four plaintiffs representing through G.P.A.(General Power of Attorney) holder by name Syed Nayeemuddin @ Salman, no other than the husband of the 3rd plaintiff to depose by seeking permission. On perusal of G.P.A. clause-1 itself shows the G.P.A. is executed authorizing the G.P.A. holder to appear before the Court and give evidence on their behalf. No doubt, a G.P.A. holder cannot depose any evidence of the facts which are within the exclusive knowledge of the principal concerned unless he got personal knowledge but for in respect of anything to depose with reference to the documents was in formation of opinion, as the case may be. The trial Court thereby should have been allowed the application subject to that as the law is fairly settled more particularly from the expression of the M.M.T.C. Ltd. vs. Medchl Chemicals and Pharma (P) Ltd.¹ and Janki Vashdeo Bhojwani vs. Indusind Bank Ltd.² reiterated by the Constitution Bench in A.C. Narayanan vs State Of Maharashtra³ no doubt subject to filing of the original G.P.A. before the Court.

¹ (2002) 1 SCC 234

² (2005) 2 SCC 217

³ AIR (2014) SC 630

With these observations, the Civil Revision Petition is allowed and the order dt.26.08.2016 in I.A.No.723 of 2015 is set aside and the matter is remitted to the lower Court to give fresh look with reference to the above in allowing and permit the G.P.A. holder subject to filing of the original G.P.A.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dt.17.11.2017.
vvr

Dr. B. SIVA SANKARA RAO, J

